

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Erwin Lawary,

Civil No. 04-1668 (DWF/FLN)

Plaintiff,

v.

ORDER

Jo Anne B. Barnhart,
Commissioner of Social Security,

Defendant.

Daniel S. Rethmeier, Esq., Rethmeier Law Office, PLLC, counsel for Plaintiff.

Lonnie F. Bryan, Assistant United States Attorney, United States Attorney's Office, counsel for Defendant.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Franklin L. Noel dated August 15, 2005, all the files and records, and no objections having been filed to said Report and Recommendation,

IT IS HEREBY ORDERED that:

1. Plaintiff's motion for summary judgment (Doc. No. 16) is **DENIED**; and
2. Defendant's motion for summary judgment (Doc. No. 20) is **GRANTED**.

Dated: September 12, 2005

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court